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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,761	08/31/2001	Kevin McCarthy	367.40544X00	4282

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EXAMINER

RICHER, AARON M

ART UNIT	PAPER NUMBER
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2628

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08/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/942,761	MCCARTHY ET AL.	
	Examiner	Art Unit	
	Aaron M. Richer	2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-11,33,34,36-39 and 46-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-11,33,34,36-39 and 46-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-39 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 4, 8, 11, 46, 47, and 49-52 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith (U.S. Patent 6,226,367).
4. As to claims 1 and 49, Smith discloses a method comprising:

receiving at a communication terminal via a communication channel a message including a group of terminal operating characteristics (col. 10, lines 21-52; operating characteristics such as an icon are received);

storing information corresponding to the group of terminal operating characteristics in the communication terminal (col. 10, lines 47-52; characteristics such as an icon are stored if they do not already exist within the phone);

and associating the group of terminal operating characteristics with a user-selectable profile of the communication terminal (col. 10, lines 47-52; an

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electronic business card, or EBC, reads on a profile, and a user can select whether this profile is stored and reused or not).

5. As to claim 4, Smith discloses a method wherein the group of terminal operating characteristics includes at least one of a card defining contact information and a calendar note defining a date of an event associated with a user-selectable profile (col. 10, lines 47-52; an electronic business card, or EBC, with contact information is stored).

6. As to claims 8 and 52, Smith discloses a method further comprising providing a display on the communication terminal allowing the user to discard one of more of the terminal operating characteristics from a received message after inspecting the terminal operating characteristics included in the message (col. 10, lines 47-52; an option for storing an EBC is presented; if a user chooses not to store an EBC, the EBC is not saved and therefore discarded).

7. As to claim 11, Smith discloses a method wherein the message includes a profile name label for the group of terminal operating characteristics (col. 10, lines 9-20; the EBCs are indexed by name, which corresponds to a profile name label).

8. As to claims 46 and 50, Smith discloses a method comprising:

after receiving the message, providing a display on the communication terminal to notify a user of the receipt of the terminal operating characteristics (col. 10, lines 40-52; characteristics such as an icon are displayed, alerting a user to new characteristics received);

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and receiving at the communication terminal user input indicating that the received terminal operating characteristics are to be saved on the communication terminal (col. 10, lines 47-52; an option for storing an EBC is presented; if a user chooses not to store an EBC, the EBC is not saved and therefore discarded).

9. As to claims 47 and 51, Smith discloses a method comprising:

receiving at the communication terminal user input selecting the user-selectable profile (col. 10, lines 47-52; an option for storing an EBC is presented);

configuring the communication terminal to operate according to the terminal operating characteristics of the selected profile (col. 10, lines 40-45; if a matching EBC already exists, or has already been saved, the characteristics for this EBC are used).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a

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later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 2 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Paik (U.S. Patent 6,675,008).

13. As to claims 2 and 53, Smith discloses a method wherein the group of terminal operating characteristics includes at least one graphical picture associated with a user-selectable profile (col. 10, lines 40-52; characteristics such as an icon are displayed, alerting a user to new characteristics received), but does not disclose a method wherein a ringing tone is an operating characteristic received. Paik, however, discloses a ringing tone for caller identification transmitted from one mobile terminal and received at another, along with a picture (col. 8, lines 1-22; col. 10, lines 48-62). The motivation for this is to more easily identify a caller (col. 3, lines 52-63). It is also noted that the ringing tone is simply another piece of data and the addition of a tone to the electronic business card of Smith does not change the principle of operation of Smith. As pointed out by Paik, a ringing tone is just another unique identifier of an individual. It would have been obvious to one skilled in the art to modify Smith to receive a ringing tone along with a picture in order to better identify a caller as taught by Paik.

14. Claims 5-7, 33, 38, 39 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Park (U.S. Patent 7,158,805).

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15. As to claim 5, Smith does not disclose that a group of terminal operating characteristics includes bookmark information defining the location of a server document associated with a user-selectable profile. Park, however, discloses an update system with information such as a home page address (col. 9, see information item 10). It would have been obvious to one skilled in the art to modify Smith to include a server document address as received information as taught by Park as this is simply combining a new piece of information into the structure of Smith. The invention of Smith would still perform the same way, but would display and store a document address instead of an icon and other business card data. One skilled in the art would recognize this as keeping in the spirit of Smith's invention, while substituting one piece of data for another.

16. As to claim 6, Park discloses a method of receiving promotional content from a remote server (col. 9, see information item 14). See the rejection to claim 5 for the rationale of the Smith-Park combination.

17. As to claim 7, Park discloses a method of receiving event driven content from a remote server (col. 9, see information item 25). See the rejection to claim 5 for the rationale of the Smith-Park combination.

18. As to claim 33, Smith discloses a method comprising:

receiving at a communication terminal via a communication channel a message including a group of terminal operating characteristics (col. 10, lines 21-52; operating characteristics such as an icon are received);

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identifying one or more user-selectable profiles stored on the communication terminal (col. 10, lines 47-52; characteristics such as an icon are stored or searched for on the device);

Smith does not disclose updating characteristics of profiles to correspond to the received group of terminal operating characteristics. Park, however, discloses updating of contact information (col. 3, line 47-col. 4, line 3), this contact information being similar to Smith's electronic business card (col. 4, lines 13-29; information such as office email address and phone number is stored). The motivation for updating automatically is to take away the burden on a user to update the information himself (col. 1, lines 41-49). It would have been obvious to one skilled in the art to modify Smith to automatically update in order to reduce burden on a user as taught by Park.

19. As to claim 38, see the rejection to claim 6.

20. As to claim 39, see the rejection to claim 7.

21. As to claim 48, see the rejection to claim 46. Smith does not disclose that profiles are to be updated, but Park does disclose this as stated in the rejection to claim 33.

22. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith view of Paik and further in view of Park.

23. As to claim 9, Park discloses a method of creating an animation associated with a user-selectable profile with a plurality of individual pictures (col. 9, see information item 16 "moving picture"). See the rejection to claim 5 for the rationale of the Smith-Park combination. It is submitted that the same rationale

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applies to the combination of the Smith, Park, and Paik references, as an animation is just another piece of identifying data to be received.

24. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith view of Paik and Park and further in view of Tran (U.S. Publication 2022/0069220).

25. As to claim 10, none of Smith, Paik, and Park discloses producing a screen saver from an animation upon selection of a user-selectable profile. Tran, however, discloses a mobile terminal (p. 5, section 0060) that downloads news clips and animates them as a news ticker to be used when the mobile terminal is inactive, thus acting as a screen saver (p. 17, section 0142). It would have been obvious to one skilled in the art to modify Smith to display a screen saver of received information as taught by Tran as this is simply combining pieces of data into an animation as is known in the art. The invention of Smith would still perform the same way, but would use icons or pictures in succession to create a screen saver instead of just displaying single icons. One skilled in the art would recognize this as keeping in the spirit of Smith's invention, while substituting one piece of data for another.

26. Claims 34, 36, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith view of Park and further in view of Paik.

27. As to claim 34, Smith discloses a terminal operating characteristic including a graphical picture (col. 10, lines 21-52; an icon is disclosed), which is also disclosed by Park (col. 9, see information item 16). Neither Smith nor Park discloses that the characteristic can be a ringing tone. Paik does disclose this

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ringing tone and the rationale for combining Paik with Smith and Park is the same as the rationale for the combination of Paik and Smith given in the rejection to claim 2.

28. As to claim 36, see the rejection to claim 4.

29. As to claim 37, see the rejection to claim 5.

Conclusion

30. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

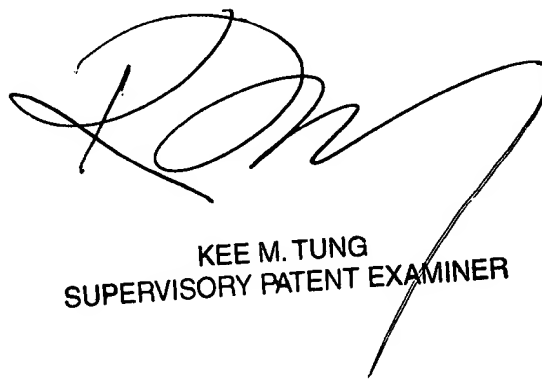
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M. Richer whose telephone number is (571) 272-7790. The examiner can normally be reached on weekdays from 8:30AM-5:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung can be reached on (571) 272-7794. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AMR
8/1/07



KEE M. TUNG
SUPERVISORY PATENT EXAMINER